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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/926,636 | 11/28/2001 | Tsuyoshi Sakyo | 216251US3PCT | 5729 |

22850 7590 04/16/2003

OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER

CARPENTER, SCOTT A

| | |
|----------|--------------|
| ART UNIT | PAPER NUMBER |
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3612

DATE MAILED: 04/16/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/926,636

Applicant(s)

SAKYO, TSUYOSHI

Examiner

Scott A. Carpenter

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 2/25/03.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3,5-8,10 and 11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3, 5-8, 10, and 11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 November 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. In light of applicants statement in the response filed 2/25/03 stating that claim 6 is readable on the elected invention, claim 6 is rejoined.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 3, 5-8, 10, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Japanese Patent 7-34486 in view of Stevens in U.S. Patent 5,481,441 and Martin, Jr. in U.S. Patent 4,702,516.

Regarding claims 1, 3, and 4, Japanese Patent 7-34486 ('486 hereafter) discloses a cab for a construction machine having two side frames (the side walls), a door, a front window, a roof, and a rear section, and a cross beam member (12), but fails to teach the use of a reinforcing beam member provided between first and second side frame structures. Stevens discloses a light bar apparatus of the type typically installed on vehicles comprising a rod-like beam member (16). It would have been obvious to one of ordinary skill in the art to modify the invention of '486 to include the light bar of Stevens along the upper front portion of the cab to enhance operator visibility at night without blocking visibility through the window, and furthermore, the beam member of Stevens would also reinforce the upper front section in the transverse direction.

Additionally, '486 and Stevens fail to disclose a window panel in the roof. Martin, Jr. (Martin hereafter) discloses a cab for an industrial vehicle having a window in the front roof panel. It would have been obvious to one of ordinary skill in the art to further modify the

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combination of '486 and Stevens to include a roof panel window in the front - as taught by Martin - to enhance the range of visibility of the operator in the cabin. Additionally, when including the roof panel window, it would have been further obvious to one of ordinary skill in the art to mount the light bar of Stevens in the boundary region between the front and roof panel windows to prevent the light bar from obscuring the operator's field of view.

Regarding claims 5 and 6, while none of the references teach mounting brackets to secure the light bar of Stevens to the cab of '486, it would have been obvious to one of ordinary skill in the art to make or use premade brackets (as needed) to mount the light bar of Stevens to the cab of '486. Additionally, since the light bar of Stevens pivots, it would be necessary to use mounting brackets on the end support units and, accordingly, the front sides or front lateral sides of the cab of '486.

Regarding claims 7 and 8, the device of Stevens has four lamps.

Regarding claim 10, Stevens discloses a square beam, however, it would have been obvious to one of ordinary skill in the art to modify the invention of Stevens if desired to use a beam of circular cross section as an aesthetic design choice.

Regarding claim 11, the use of foaming resins for filling and reinforcing structural members is old in the arts, and therefore it would have been obvious to one of ordinary skill in the art to use a standard light bar of the type of Stevens (without adjustable lights) if the adjustability was not desired, and to further fill the hollow bar with reinforcing resin to further strengthen the beam.

4. Applicant's arguments filed 2/25/03 have been fully considered but they are not persuasive.

Applicant's arguments appear to detail perceived deficiencies in each of the references separately which were relied upon in the rejection. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREEMONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott A. Carpenter whose telephone number is 703-308-6290.


The examiner can normally be reached on Mon. - Thurs. 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, D. Glenn Dayoan can be reached on 703-308-3102. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-3297 for regular communications and 703-308-3297 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

sac

April 10, 2003


SCOTT CARPENTER
PATENT EXAMINER

4/10/03

 4/10/03

D. GLENN DAYOAN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600